

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Appeal No. 557-SB of 1997

Date of decision: 12th January, 2010

Hanuman

... Appellant

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Surinder Batra, Advocate for the appellant.
Mr. Deepak Jindal, Deputy Advocate General, Haryana
for the State.
Mr. Sudhir Sharma, Advocate for the complainant.

KANWALJIT SINGH AHLUWALIA, J.

In the present case accused had fired shot from a country-made pistol, which had hit knee of Balwan. The accused made a disclosure statement and got recovered the country-made pistol. Amar Singh appeared as PW-2 and supported the version given by ASI Dharamvir PW-3. In pursuance of the disclosure statement made, pistol Ex.P1 and empties Ex.P2 to P4 were recovered on 8th March, 1995. The trial Court had convicted the appellant for offence under Section 25 of the Arms Act and had sentenced him to undergo rigorous imprisonment for two years. It was further ordered that the sentence shall run concurrent with the sentence awarded to the accused under Section 307 IPC.

This Court had separately decided Criminal Appeal No.554-SB of 1997, wherein it was held that accused had fired shot at Balwan and had caused an injury which fall under Section 308 IPC and has

sentenced him to undergo rigorous imprisonment for three years. The testimony of Amar Singh PW-2 and ASI Dharamvir PW-3 has been relied in the case under Section 308 IPC, where Amar Singh had appeared as PW-12 and ASI Dharamvir had appeared as PW-15. Therefore, once recovery of weapon in pursuance of disclosure statement has been proved and it has been held by the Court that fire arm was used to cause injury, there is no justification to substitute the well reasoned judgment of the trial Court. However, as the trial Court had stated that the sentence awarded under Section 25 of the Arms Act shall run concurrent with the sentence awarded under Section 307 IPC, this Court acting as an appellate Court also affirms this finding and orders that sentence of two years rigorous imprisonment awarded to the appellant under Section 25 of the Arms Act shall run concurrent with the sentence of three years rigorous imprisonment awarded to him under Section 308 IPC.

With the observations made above, present appeal is disposed of.

[KANWALJIT SINGH AHLUWALIA]
JUDGE

12th January, 2010
rps